

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 29TH OCTOBER 2007 / 7TH KARTHIKA 1929

W.P.(C).No. 31900 of 2007(V)

PETITIONER:

GEOJIT FINANCIAL SERVICES LTD.,
VTH FLOOR, FINANCE TOWERS, KALOOR, KOCHI-17,
REPRESENTED BY CHIEF FINANCIAL OFFICER,
BINOY VARGHESE SAMUEL.

BY ADV. SRI.VIJAYAN. K.U.
SRI.K.N.SREEKUMARAN

RESPONDENTS:

1. INTELLIGENCE INSPECTOR,
SQUAD NO.V., COMMERCIAL TAXES,
PALAKKAD P.O., PIN - 683501.
2. STATE OF KERALA, REPRESENTED BY
THE SECRETARY (TAXES), GOVT.SECRETARIAT,
THIRUVANANTHAPURAM - 690 001.

BY GOVT. PLEADER SRI.K.P. PRADEEP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 26/10/2007, THE COURT ON 29/10/2007
DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) No. 31900 OF 2007 V
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Dated this the 29th October, 2007

J U D G M E N T

An antenna purchased by the petitioner from Bharati Airtel Services Ltd., (formerly Bharati Comtel Ltd.) as per Ext. P1 purchase order and transported to the petitioner's branch office at Palai has been detained by the respondents as per Ext. P3. The irregularities noticed for detention are that the consignee is not a dealer of the goods under transport and that the permissibility of the dealer to import the item is suspicious. It is also noted that if the items are not for sale sufficient documents did not accompany the goods. It is on this basis the goods are detained. Petitioner would contend that the antenna in question was purchased as per Ext. P1 purchase order and Ext. P2 is the tax invoice, as per which CST at 4% has already been paid. They would contend that in view of Ext. P4 judgment of this Court form 16 declaration need not accompany the goods. They are also relying on the

judgment of this Court in **Sunitha Diesel Sales & Services v. State of Kerala** {(2996) 102 STC 448 (Ker.)} to canvass for the position that the transaction in question being an inter-State transaction there is no question of tax being exigible under the provisions of the KGST Act. Consequently it is stated that Section 47 now invoked against them, does not have any application at all.

2. Irrespective of the merits of the contention raised by the petitioner, the only issue that I need consider at this stage is whether the petitioner should be allowed release of the goods which is now under detention. Petitioner being a company engaged in financial services has brought the antenna in question for its own use from outside the State. If that be so, the correctness or irregularities in the order of detention is a matter to be gone into adjudication. Pending adjudication, I see no justification to continue the detention of the goods. Therefore, the goods detained as per Ext. P3 shall be released to the petitioner along with the vehicle, on the petitioner executing a bond without sureties. Thereafter the

officer concerned will continue adjudication and parties will be governed by the order to be passed.

**ANTONY DOMINIC
JUDGE**

jan/-